

## IV. Administrative Requirements

## A. Docket

Copies of the three submittals and other information relied upon for the final full approval, including public comments received and reviewed by EPA on the proposal, are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final full approval. The docket is available for public inspection at the location listed under the ADDRESSES section of this document.

## B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

## C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

## D. Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of these operating permit programs, the state of Nebraska and two local agencies have elected to adopt the program provided for under Title V of the CAA. These rules bind these entities to perform certain actions and also require the private sector to perform certain duties.

To the extent that the rules being proposed for approval by this action will impose new requirements, sources are already subject to these regulations under statelaw. EPA has determined that this proposed action does not include a mandate that may result in estimated costs of \$100 million or more to state, local, or tribal governments in the aggregate or to the private sector.

## List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental

relations, Operating permits, and Reporting and recordkeeping requirements.

Dated: October 6, 1995.  
Dennis Grams,  
Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

**PART 70—[AMENDED]**

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

2. Appendix A to part 70 is amended by adding the entry for the state of Nebraska, the city of Omaha, and LLCHD to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

\* \* \* \* \*

State of Nebraska; City of Omaha; Lincoln-Lancaster County Health Department

(a) The Nebraska Department of Environmental Quality submitted on November 15, 1993, supplemented by correspondence dated November 2, 1994, and August 29, 1995.

(b) Omaha Public Works Department submitted on November 15, 1993, supplemented by correspondence dated April 18, 1994; May 13, 1994; August 12, 1994; April 13, 1995; and April 19, 1995.

(c) Lincoln-Lancaster County Health Department submitted on November 15, 1993, supplemented by correspondence dated June 27, 1994. Full approval effective on: November 17, 1995.

(d) Reserved.

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**40 CFR Part 125**

[FRL-5312-2]

**Subpart K—Criteria and Standards for Best Management Practices Authorized Under Section 304(e) of the Act**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; technical correction.

**SUMMARY:** This technical correction changes the title of the BMP guidance document from "NPDES Best Management Practices Guidance Document" to "Guidance Manual for Developing Best Management Practices

(BMP)", and it changes who to contact to obtain a copy of the document.

**EFFECTIVE DATE:** October 18, 1995.

**FOR FURTHER INFORMATION CONTACT:** Deborah G. Nagle at 202-260-2656.

**SUPPLEMENTARY INFORMATION:** This technical correction changes the title of the BMP guidance document from "NPDES Best Management Practices Guidance Document" to "Guidance Manual for Developing Best Management Practices (BMP)", and it changes who to contact in order to obtain a copy of the document.

EPA has determined that providing prior notice and opportunity for this correction is unnecessary since the rule changes no legal duties on any persons. For the same reasons, EPA believes there is good cause for making this correction to the CFR immediately effective. See 5 U.S.C. 553(d).

Because today's action simply changes an obsolete name and address, this action has no regulatory impact and is not a "significant" regulatory action within the meaning of E.O. 12866. It also does not impose any Federal mandate on State, local or tribal governments or the private sector within the meaning of the Unfunded Mandate Reform Act of 1995. For the same reasons, pursuant to the Regulatory Flexibility Act, I certify that this action would not have a significant economic impact on a substantial number of small entities. Finally, this correction does not affect requirements under the Paperwork Reduction Act.

## List of Subjects in 40 CFR Part 125

Environmental protection, Reporting and record keeping requirements, Water pollution control, Waste and disposal.

Dated: October 12, 1995.

Robert Perciasepe,  
Assistant Administrator.

Part 125 of Title 40 of the Code of Federal Regulations is amended as follows:

**PART 125—CRITERIA AND STANDARD FOR THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

1. The authority citation for part 125 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C 1251 et seq.

2. Subpart K, section 125.104 is amended by revising the comment following paragraph (b)(4)(iii) to read as follows:

**§ 125.104 Best management practices programs.**

\* \* \* \* \*

- (b) \* \* \*
- (4) \* \* \*
- (iii) \* \* \*

[Comment: Additional technical information on BMPs and the elements of a BMP program is contained in publication entitled "Guidance Manual for Developing Best Management Practices (BMP)." Copies may be obtained by written request to the Office of Water Resource Center (mail code: 4100), Environmental Protection Agency, Washington, D.C. 20460].

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[FR Doc. 95-25845 Filed 10-17-95; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

#### 42 CFR Part 411

[BPD-482-CN]

RIN 0938-AD73

#### Medicare Program; Medicare Secondary Payer for Individuals Entitled to Medicare and Also Covered Under Group Health Plans; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period; Correcting amendments.

**SUMMARY:** This document makes corrections to the final rule with comment period entitled "medicare program; medicare secondary payer for individuals entitled to medicare and also covered under group health plans" that was published in the Federal Register on Thursday, August 31, 1995 (60 FR 45344).

**EFFECTIVE DATE:** September 29, 1995.

**FOR FURTHER INFORMATION CONTACT:** Roya D. Lotfi, (410) 786-1898

#### SUPPLEMENTARY INFORMATION:

##### Background

In the August 31, 1995 issue, we amended the rules to implement certain provisions of section 1862(b) of the Social Security Act, as amended by the Omnibus Budget Reconciliation Acts of 1986, 1989, 1990, and 1993 and the Social Security Act Amendments of 1994 that affected the Medicare secondary payer rules for individuals who are entitled to Medicare on the basis of age or who are eligible or entitled on the basis of end stage renal disease, and who are also covered under group health plans. We also established limits on Medicare payment for services furnished to individuals who are entitled to Medicare on the basis of

disability and who are covered under large group health plans by virtue of their own or a family member's current employment status with an employer; and prohibit large group health plans from taking into account that those individuals are entitled to Medicare on the basis of disability.

The final rule with comment period that is the subject of these corrections was necessary because of the statutory changes referenced above. Those changes required a new subpart for the provisions that now apply generally to all group health plans and Medicare secondary payer situations. We also needed to make room for incorporating in logical order any additional regulations that may be required by future amendments to the Act.

#### Correction of Publication

As published, the final rule with comment period contains errors. Accordingly, the publication on August 31, 1995 of the final rule with comment that was the subject of FR Doc. 95-21265, is corrected as follows (see also correction published September 20, 1995 at 60 FR 48749):

In the preamble, we correct typographical errors on page 45358, first column, last paragraph. As corrected the first sentence reads:

"In contrast, a plan that is paying primary benefits takes into account ESRD-based eligibility if it attempts to shift that primary payment responsibility to Medicare when an individual becomes eligible for Medicare based on ESRD, or when an individual is already eligible for Medicare based on ESRD but has not completed the 18-month coordination period."

Also in the preamble, on page 45360, third column, first paragraph, several words were inadvertently omitted from the third sentence. As corrected the sentence reads:

"However, section 13561(c)(2) and (3) of OBRA '93 provides that there will be an 18-month coordination period during which employer sponsored primary insurance plans must continue to pay primary benefits even if an individual who is eligible for or entitled to Medicare based on ESRD is also entitled to Medicare on another basis."

In the regulations text of § 411.108(a)(8) on page 46364, we correct drafting errors by removing the words "no more than the Medicare payment rate" and adding the word "less"; by removing the words "but making payments at a higher rate" and adding the word "than"; and by adding the word "furnished" after the word "services" the second place it appears.

As written, a group health plan could pay one dollar more than the Medicare rate, but less than the rate it pays for non-Medicare enrollees, and not be in violation of this paragraph. Paragraph (8) presents an example as the rule, when it should simply state that where the group health plan pays less for the same services for a Medicare beneficiary than for others, the group health plan has taken Medicare entitlement into account. (See § 411.161(b)(2)(iv).)

Also in the text, we are making a conforming change in the second sentence of §§ 411.163 (b)(2) and (b)(3) on page 45369 by removing the word "If" and adding the words "Except as provided in paragraph (b)(4) of this section, if" so that paragraphs (2) and (3) cannot be misconstrued to conflict with paragraph (4).

Finally in the text, we are making a change in the first sentence of § 411.172(b) to conform this section to § 411.170(a)(2) and the statutory provisions of section 1862(b) by adding "and of subparagraph (iii) of § 411.170(a)(2)" after the word "section".

#### List of Subjects in 42 CFR Part 411

Exclusions from Medicare, Limitations on Medicare payments, Medicare, Recovery against third parties, Reporting and recordkeeping requirements.

#### PART 411—EXCLUSIONS FROM MEDICARE AND LIMITATIONS ON MEDICARE PAYMENT

42 CFR Part 411 is corrected by making the following correcting amendments:

1. The authority citation for Part 411 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

##### § 411.108 [Corrected]

2. In § 411.108, paragraph (a)(8) is revised to read as follows:

(a) *Examples of actions that constitute "taking into account".* \* \* \*

(8) Paying providers and suppliers less for services furnished to a Medicare beneficiary than for the same services furnished to an enrollee who is not entitled to Medicare.

\* \* \* \* \*

##### § 411.163 [Corrected]

3. In § 411.163, paragraphs (b)(2) and (b)(3) are revised to read as follows:

\* \* \* \* \*

(b) \* \* \*

(2) *First month of ESRD-based eligibility or entitlement and first month*